

EXHIBIT 1

INTRODUCTION

Respondent California Campaign for New Drug Policies, Yes on Prop. 36, (“Respondent Committee”) was a recipient ballot measure committee primarily formed to support Proposition 36. Respondent Committee was sponsored by the California Campaign for New Drug Policies. Proposition 36 was a state ballot measure placed on the ballot for 2000 general election. Respondent Dave Fratello served as the treasurer of Respondent Committee. This matter arose from an audit of Respondent Committee by the Franchise Tax Board, for the period January 1, 1999 through December 31, 2000.

The Political Reform Act (the “Act”)¹ requires a recipient ballot measure committee to comply with various campaign reporting requirements regarding the receipt and expenditure of campaign funds. In this matter, Respondents violated the Act by failing to report required information regarding expenditures made to sub-vendors. Respondents further violated the Act by failing to accurately report the total amount of expenditures made during a campaign period as well as the cumulative amount of expenditures made as of the closing date for that reporting period, and by failing to report specific information relating to persons to whom an expenditure of \$100 or more was made.

For the purposes of this stipulation, Respondents’ violations of the Act are stated as follows:

- COUNT 1:** On a first pre-election campaign statement filed on October 5, 2000, for the reporting period July 1, 2000, through September 30, 2000, Respondents California Campaign for New Drug Policies, Yes on Prop. 36 and Dave Fratello failed to report sub-vendor information for a September 15, 2000, payment made to Zimmerman and Markman, in violation of section 84303.
- COUNT 2:** On a first pre-election campaign statement filed on October 5, 2000, for the reporting period July 1, 2000, through September 30, 2000, Respondents California Campaign for New Drug Policies, Yes on Prop. 36 and Dave Fratello failed to report sub-vendor information for a September 18, 2000, payment made to Media Strategies and Research, in violation of section 84303.
- COUNT 3:** On a second pre-election campaign statement filed on October 27, 2000, for the reporting period October 1, 2000, through October 21, 2000, Respondents California Campaign for New Drug Policies, Yes on Prop. 36 and Dave Fratello failed to report sub-vendor information for an October 8, 2000, payment made to Media Strategies and Research, in violation of section 84303.

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in sections 18109 through 18997 of title 2 of the California Code of Regulations. All regulatory references are to title 2, division 6 of the California Code of Regulations, unless otherwise indicated.

- COUNT 4: On a second pre-election campaign statement filed on October 27, 2000, for the reporting period October 1, 2000, through October 21, 2000, Respondents California Campaign for New Drug Policies, Yes on Prop. 36 and Dave Fratello failed to report sub-vendor information for an October 12, 2000, payment made to Media Strategies and Research, in violation of section 84303.
- COUNT 5: On a second pre-election campaign statement filed on October 27, 2000, for the reporting period October 1, 2000, through October 21, 2000, Respondents California Campaign for New Drug Policies, Yes on Prop. 36 and Dave Fratello failed to report sub-vendor information for an October 16, 2000, payment made to Media Strategies and Research, in violation of section 84303.
- COUNT 6: On a second pre-election campaign statement filed on October 27, 2000, Respondents California Campaign for New Drug Policies, Yes on Prop. 36 and Dave Fratello failed to report the total amount of expenditures made during the reporting period October 1, 2000, through October 21, 2000, as well as the cumulative amount of expenditures made as of the closing date for that reporting period, in violation of section 84211, subdivision (b).
- COUNT 7: On a second pre-election campaign statement filed on October 27, 2000, Respondents California Campaign for New Drug Policies, Yes on Prop. 36 and Dave Fratello failed to report specific information relating to persons to whom an expenditure of \$100 or more was made during the reporting period October 1, 2000, through October 21, 2000, in violation of section 84211, subdivision (j).²

SUMMARY OF THE LAW

Duty to File Campaign Statements

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to ensure that receipts and expenditures in election campaigns are fully and truthfully disclosed, in order for voters to be fully informed and improper practices inhibited. To that end, the Act sets forth a comprehensive campaign reporting system.

Section 82013, subdivision (a) defines a “committee” as including any person or combination of persons who directly or indirectly receives contributions totaling \$1,000 or more in a calendar year. This type of committee is commonly referred to as a “recipient” committee.

Section 84200, subdivision (a) requires a recipient committee to file two semi-annual campaign statements each year. The first semi-annual campaign statement covers the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign

² Section 84211 was amended in 2000, effective January 1, 2001, and some of its subdivisions were re-lettered and re-numbered. The citations to section 84211, subdivision (j) are in reference to that section as it was lettered and numbered at the time of the violation prior to the amendment.

statement covers the reporting period July 1 to December 31, and must be filed by January 31 of the following year.

Section 84200.5, subdivision (b) requires a recipient committee that is a primarily formed ballot measure committee to file two pre-election campaign statements before the election in which the measure appears on the ballot, as specified in section 84200.7, subdivision (b). Section 82047.5, subdivision (b) defines “primarily formed committee” as including a recipient committee that is formed or exists primarily to support or oppose a single measure.

Duty to Report Payments Made to Sub-vendors

Section 84303 provides that no expenditure shall be made, other than for overhead and normal operating expenses, by an agent or independent contractor, including an advertising agency, on behalf of, or for the benefit of, any committee, unless it is reported by the committee as if the expenditure was made directly by the committee. Persons to whom expenditures are made through an agent or independent contractor on behalf of a committee are commonly referred to as “sub-vendors.”

Duty to Report Total and Cumulative Expenditures

On each campaign statement filed by a committee, section 84211, subdivision (b) requires the committee to report the total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

Duty to Report Expenditure Information Pertaining to Specific Persons

Section 84211, subdivisions (j)(1) – (4), required a committee to report specific information relating to each person to whom an expenditure of \$100 or more has been made during the period covered by the campaign statement, including the person’s full name, street address, amount of each expenditure, and a brief description of the consideration for which each expenditure was made.

Treasurer Liability

Under section 84100 and regulation 18427, subdivision (a), it is the duty of a committee’s treasurer to ensure compliance with all requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and severally liable, along with the committee, for any reporting violations committed by the committee. (Sections 83116.5 and 91006.)

SUMMARY OF THE FACTS

Respondent Committee was a recipient ballot measure committee primarily formed on October 29, 1999, as a primarily formed committee supporting Proposition 36, a statewide ballot measure, in the 2000 general election. The purpose of the measure was to require probation and drug treatment in lieu of incarceration for the possession, use, transportation of controlled

substances and similar parole violations, excepting sales or manufacturing. The measure was adopted by the voters.

In connection with the 2000 general election, Respondents received contributions and made expenditures totaling approximately \$4.2 million.

COUNTS 1 - 5

Failure to Report Payments Made to Sub-vendors

Respondents had a duty to report on their campaign statements specified information regarding payments that were made on their behalf to sub-vendors for broadcast advertising and other campaign services.

Count 1

Zimmerman & Markman

Respondents contracted with the consulting firm, Zimmerman and Markman ("Zimmerman"), for media consulting services. Respondents made a payment to Zimmerman, which, in turn, made payments to various sub-vendors for broadcast advertising on Respondents' behalf. Respondents were required to report the name and street address of sub-vendor Carey Productions, Inc. ("Carey"), the amount of the payments made to Carey, and a brief description of the consideration that was received from Carey for each payment, but failed to do so.

The date of payment made to Zimmerman by Respondents for which sub-vendor information was not disclosed, the reporting period during which the sub-vendor information should have been reported, the amounts of sub-vendor payments not disclosed, and the count to which these payments correspond, are set forth below.

Count	Date of Payment to Vendor	Reporting Period	Vendor	Sub-vendors	Approx. Amount Not Disclosed
1	9/15/00	7/01/00-09/30/00 (1 st pre-election)	Zimmerman & Markman	Carey Productions, Inc.	\$24,000

Subtotal (Zimmerman & Markman)	\$24,000
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Media Strategies and Research

Respondents also contracted with the consulting firm, Media Strategies and Research (“Media Strategies”), for media consulting services. Over the course of two reporting periods, Respondents made four payments to Media Strategies, which, in turn, made payments to various sub-vendors for broadcast advertising on Respondents’ behalf. Respondents were required to report the name and street address of each sub-vendor, the amount of the payments made to each sub-vendor, and a brief description of the consideration that was received for each payment, but failed to do so.

The date of payments made to Media Strategies by Respondents for which sub-vendor information was not disclosed, the reporting periods during which the sub-vendor information should have been reported, the amounts of sub-vendor payments not disclosed, and the counts to which these payments correspond, are set forth below:

Count	Date of Payment to Vendor	Reporting Period	Vendor	Sub-vendors	Approx. Amount Not Disclosed
2	09/18/00	07/01/00-09/30/00 (1st pre-election)	Media Strategies	Various television, radio, and other media services	\$890,473
3	10/08/00	10/01/00-10/21/00 (2nd pre-election)	Media Strategies	Various television, radio, and other media services	\$329,432
4	10/12/00	10/01/00-10/21/00	Media Strategies	Various television, radio, and other media services	\$108,266
5	10/16/00	10/01/00-10/21/00	Media Strategies	Various television, radio, and other media services	\$60,114

Subtotal (Media Strategies)	\$1,388,285
Subtotal (Zimmerman & Markman)	\$24,000
Total Amount of Sub-vendor Payments Not Disclosed	\$1,412,285

By failing to report sub-vendor information regarding the foregoing five payments to vendors Media Strategies and Zimmerman, and corresponding sub-vendor payments totaling \$1,412,285, Respondents committed five violations of section 84303.

COUNT 6
Failure to Report Total and Cumulative Expenditures

In this matter, Respondents failed to timely report any information regarding expenditures totaling \$116,275, as described in the chart below. Under section 84211, subdivision (b), Respondents were required to report the total amount of expenditures made during the campaign reporting period October 1, 2000, through October 21, 2000, and the cumulative amount of expenditures made as of October 21, 2000, the closing date for the reporting period. This information was required to be reported by October 26, 2000. By failing to include expenditures of \$116,275 on the campaign report, Respondents failed to accurately report total expenditures by the filing date, and additionally failed to accurately report the cumulative amount of expenditures made by the Respondent Committee through October 21, 2000.

Expenditures Not Reported		
Date	Payee	Amount
10/02/2000	COPS Voter Guide	\$22,500
10/13/2000	Jim Gonzalez & Associates, LLC	10,000
10/19/2000	California Education Voter Guide	20,000
10/20/2000	L.A. Vote	25,000
10/20/2000	Progressive Connections	10,000
10/20/2000	Printing Palace	1,459
10/20/2000	Fairbank, Maslin, Maullin & Associates	18,500
10/20/2000	Printco Graphics Inc.	1,010
10/20/2000	Law Office of Cliff Gardner	7,655
	(Expenditures Less than \$1,000)	151
TOTAL		\$116,275

By failing to report the total amount of expenditures made during the campaign reporting period as well as the cumulative amount of expenditures made as of the closing date for that reporting period, Respondents violated section 84211, subdivision (b).

COUNT 7
Duty to Report Expenditure Information Pertaining to Specific Persons

Respondents had a duty to timely file campaign statements disclosing information regarding the expenditure of campaign funds. In particular, Respondents had a duty to report specific information relating to each person to whom an expenditure of \$100 or more had been made during the reporting period October 1, 2000, through October 21, 2000, including the person's full name, street address, amount of each expenditure, and a brief description of the consideration for which each expenditure was made. By failing to report specific information pertaining to the expenditures described in the chart above, Respondents violated section 84211, subdivision (j).

CONCLUSION

This matter consists of seven counts, which carry a maximum administrative penalty of Two Thousand Dollars (\$2,000) per count, for a total administrative penalty of Fourteen Thousand Dollars (\$14,000).³

In mitigation, the Respondents have no history of violating the Act, there is no evidence of any intent to conceal or mislead, the violations appear to have been at most, negligent or inadvertent, the Respondents demonstrated good faith by reporting the missing information when it became available to them, and they cooperated fully with the Franchise Tax Board audit and with the Enforcement Division's proceedings. Further, the specific sub-vendor information consisting of amounts spent with each radio and television station was not available until after the election despite Respondents' efforts to timely obtain it.

Regarding Counts 1 – 5, the typical stipulated administrative penalty for sub-vendor reporting violations has historically ranged from \$1,500 to \$2,000 per violation, depending upon the total dollar amount not reported, and whether the information should have been reported on a pre-election or post-election campaign statement. In this case, the total dollar amount not reported is balanced by the mitigating factors described above. Thus, imposition of an administrative penalty toward the middle of the range for each count, resulting in a total administrative penalty of \$8,500 for Counts 1 – 5, is appropriate.

For Count 6, the typical stipulated administrative penalty for the failure to report the total amount of expenditures for each reporting period as well as the cumulative amount of expenditures made as of the closing date for the reporting period has ranged from \$1,000 to \$2,000 for violations occurring prior to January 1, 2001, depending upon the circumstances of the violation. In this matter, the failure to properly disclose \$116,275 resulted in the public's inability to access accurate information regarding the committee's expenditures during the period before the election, although the amount is small in comparison to the total expenditures of the Respondent Committee. Thus, imposition of an administrative penalty in the middle of the range of \$1,500 for Count 6 is appropriate.

Regarding Count 7, the typical stipulated administrative penalty for the failure to disclose specific information pertaining to persons to whom an expenditure of \$100 or more was made has ranged from \$1,000 to \$2,000 for violations occurring prior to January 1, 2001, depending upon the circumstances of the violation. In this matter, the failure to properly report information resulted in the public's inability to access specified, detailed information regarding the recipients of over \$100,000 of the committee's expenditures during the period before the election. Thus, imposition of the maximum administrative penalty of \$2,000 for Count 7 is appropriate.

Accordingly, the facts of this case justify imposition of the agreed upon penalty of Twelve Thousand Dollars (\$12,000).

³ On January 1, 2001, the maximum administrative penalty amount increased from Two Thousand Dollars (\$2,000) to Five Thousand Dollars (\$5,000) for violations occurring after that date.